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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,549	07/20/2006	Martijn Schimmer	3135-053021	4397

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THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

EXAMINER
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WANG, JACK K

ART UNIT	PAPER NUMBER
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4154

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,549	<b>Applicant(s)</b> SCHIMMER ET AL.	
	<b>Examiner</b> JACK K. WANG	<b>Art Unit</b> 4154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 13-24 are pending in this application.

Claims 1-12 are cancelled by applicant.

#### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered new claims 13-24 have been renumbered 14-25.

3. Claim 13 objected to under 37 CFR 1.75(c) as being in improper form because claim 12, upon which it depends, is cancelled by applicant. See MPEP § 608.01(n). Accordingly, the claim 13 has not been further treated on the merits.

#### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference

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claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 14-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 18, 19 and 23-32 of copending Application No. 10/552,547 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because application has a broad or generic claim which fully encompasses or reads on an invention defined in a narrower or more specific claim in another application.

These are provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows in Table 1 below.

Instant Applicaiton	10/552,549
Claim 14 (new): A system for localizing articles of sports equipment, comprising: means for generating an energy field, wherein the energy field is formed by one or more pulse streams, at least one article of sport equipment provided with at least one disrupting means for locally disrupting the energy field, detecting means for detecting the local disruption of the energy field, and a control unit coupled to the detecting means for localizing the article of sports equipment on the basis of the detected local disruption, wherein the means for generating the energy field are adapted to transmit pulse beams of a plurality of pulse streams, wherein at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other.	Claim 18 (new): A localization system, comprising: means for generating an energy field, wherein the energy field is formed by one or more pulse streams, at least one disrupting means for locally disrupting the energy field, detection means for detecting the local disruption of the energy field, and a control unit coupled to the detection means for localizing the disrupting means on the basis of the detected local disruption, wherein the means for generating the energy field are adapted to transmit pulse beams of a plurality of pulse streams, wherein at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other.
Claim 15 (new): The system as claimed in claim 13, wherein each pulse beam comprises nine pulse streams, which pulse streams are oriented at least substantially parallel to each other.	Claim 19 (new): The localization system as claimed in claim 18, wherein each pulse beam comprises nine pulse streams, which pulse streams are oriented at least substantially parallel to each other.
Claim 16 (new): The system as claimed in claim 13, wherein the disrupting means is adapted to disrupt the energy field in a unique manner.	Claim 23 (new): The localization system as claimed in claim 18, wherein the disrupting means is adapted to disrupt the energy field in unique manner.
Claim 17 (new): The system as claimed in clam 13, wherein the disrupting means is	Claim 24 (new): The localization system as claimed in claim 18, wherein the disrupting

adapted to reflect the pulse streams.	means is adapted to reflect the pulse streams.
Claim 18 (new): The system as claimed in claim 13, wherein the disrupting means is adapted to influence the pulse streams.	Claim 25 (new): The localization system as claimed in claim 18, wherein the disrupting means is adapted to influence the pulse streams.
Claim 19 (new): The system as claimed in claim 13, wherein the disrupting means is formed by a chip.	Claim 26 (new): The localization system as claimed in claim 18, wherein the disrupting means is formed by a chip.
Claim 20 (new): The system as claimed in claim 13, wherein the disrupting means is formed by a coating.	Claim 27 (new): The localization system as claimed in claim 18, wherein the disrupting means is formed by a coating.
Claim 21 (new): The system as claimed in claim 13, wherein the system is provided with visual means communicating with the control unit for displaying the location of the detected article of sports equipment.	Claim 28 (new): The localization system as claimed in claim 18, wherein the localization system is provided with visual means communicating with the control unit for displaying the location of the detected disrupting means.
Claim 22 (new): The system as claimed in claim 20, wherein the communication between the control unit and the visual means takes place wirelessly via electromagnetic radiation.	Claim 29 (new): The localization system as claimed in claim 28, wherein the communication between the control unit and the visual means takes place wirelessly via electromagnetic radiation.
Claim 23 (new): The system as claimed in claim 20, wherein the communication between the control unit and the visual means takes place wirelessly via pulse streams.	Claim 30 (new): The localization system as claimed in claim 28, wherein the communication between the control unit and the visual means takes place wirelessly via pulse streams.
Claim 24 (new): A method for localizing sports equipment, comprising the steps of: A) generating an energy field, wherein the energy	Claim 31 (new): A method for localizing objects or animals, comprising the steps of: A) generating an energy field, wherein the energy

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field is formed by multiple pulse streams, wherein at least two pulse streams are oriented at least substantially parallel to each other, B) placing in the energy field at least one article of sports equipment, provided with at least one disrupting means for locally disrupting the energy field, C) detecting the local disruption of the energy field, and D) localizing the article of sports equipment on the basis of the detected local disruption.	field is formed by one or more pulse streams, wherein at least two pulse streams are oriented at least substantially parallel to each other, B) placing in the energy field at least one object or animal provided with at least one disrupting means for locally disrupting the energy field, C) detecting the local disruption of the energy field, and D) localizing the object or animal on the basis of the detected local disruption.
Claim 25 (new): The method as claimed in claim 23, wherein the method is provided with a step E) comprising of visualizing the location of the article of sports equipment after localizing the article of sports equipment on the basis of the detected local disruption as according to step D).	Claim 32 (new): The method as claimed in claim 31, wherein the method is provided with a step E) comprising of visualizing the location of the object or animal after localizing the object or animal on the basis of the detected local disruption as according to step D).

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word "unique manner" is vague and indefinite.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14, 16-19, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lastinger et al. (US Patent # 6,552,661 B1), and further in view of Horwitz et al. (US Patent # 6,617,962 B1).

Consider claim 14, Lastinger et al. clearly shown and discloses a system for localizing (determination of the location) articles of sports equipment (object), comprising: means for generating an energy (radio frequency) field, wherein the energy (radio frequency) field is formed by one or more pulse streams (pulse code modulation), at least one article of sport equipment (object) provided with at least one disrupting (detecting) means for locally disrupting (to locate object as in the a zone) the energy (radio frequency) field, detecting means for detecting the local disruption of the energy field, and a control unit (locator) coupled to the detecting means for localizing the article of sports equipment on the basis of the detected local disruption, wherein the means for generating the energy field are adapted to transmit pulse beams of a plurality of pulse streams (Column 4 lines 4-27), except wherein at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other.

In the same field of endeavor, Horwitz et al. teaches a system for multi-standard RFID tags discloses the wherein at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other (Column 6 lines 52-61) for the benefit of provide a multi frequency capability for the reader.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other as shown in Horwitz et al. in Lastinger et al. device for the benefit of provide a multi frequency capability for the reader.



Consider claim 16, Lastinger et al. clearly shown and disclose the system wherein the disrupting (determination) means is adapted to disrupt (detect) the energy field in unique manner (Column 4 lines 4-19).

Consider claim 17, Lastinger et al. clearly shown and discloses the system wherein the disrupting means is adapted to reflect the pulse streams (Column 4 lines 29-36).

Consider claim 18, Lastinger et al. clearly shown and disclose the system wherein the disrupting means is adapted to influence (absorption) the pulse streams (Column 4 lines 29-36).

Consider claim 19, Lasting et al. clearly shown and discloses the similar invention except the system wherein the disrupting means is formed by a chip.

Horwitz et al. teaches the disrupting means is formed by a chip (Column 1 lines 34-38) for the benefit of comply with industrial standard in RFID technology.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the disrupting means is formed by a chip as shown in Horwitz et al., in Lastinger et al. device for the benefit of comply with industrial standard in RFID technology.

Consider claim 21, Lastinger et al. clearly shown and discloses the system wherein the system is provided with visual means (computer 110) communicating with the control unit for displaying the location of the detected disrupting means (Column 4 lines 41-51).

Consider claim 22, Lastinger et al. clearly shown and discloses the system wherein the communication between the control unit and the visual means takes place wirelessly via electromagnetic radiation (Column 4 lines 63-67 and Column 5 lines 1-11).

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Consider claim 23, Lastinger et al. clearly shown and disclose the system wherein the communication between the control unit and the visual means takes place wirelessly via pulse streams (Column 4 lines 63-67 and Column 5 lines 1-14).

Consider claim 24, Lastinger et al. clearly shown and discloses a method for localizing sports equipment (objects), comprising the steps of: A) generating an energy (radio frequency) field, wherein the energy field is formed by one or more pulse streams, B) placing in the energy field at least one object or animal provided with at least one disrupting means for locally disrupting the energy field, C) detecting the local disruption (detection) of the energy (radio frequency) field, and D) localizing the object or animal on the basis of the detected local disruption (Column 4 lines 4-29), except wherein at least two pulse streams are oriented at least substantially parallel to each other.

Horwitz et al. teaches a system for multi-standard RFID tags discloses the wherein at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other (Column 6 lines 52-61) for the benefit of provide a multi frequency capability for the reader.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include at least two pulse streams of a pulse beam are oriented at least substantially parallel to each other as shown in Horwitz et al. in Lastinger et al device for the benefit of provide a multi frequency capability for the reader.

Consider claim 25, Lastinger et al. clearly shown and discloses the method, wherein the method is provided with a step E) comprising of visualizing the location of the article of sports equipment (object) after localizing the article of sports equipment (object) on the basis of the detected local disruption as according to step D) (Column 4 lines 41-51) .

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10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lastinger et al. (US Patent # 6,552,661 B1) in view of Horwitz et al. (US Patent # 6,617,962 B1) as applied to claim 13 above, and further in view of Hartmann (Pub. # US 2003/0142691 A1).

Consider claim 15, Lastinger et al. and Horwitz et al. combined reference teaches similar invention except the system wherein each pulse beam comprises nine pulse streams.

Hartmann teaches each pulse beam comprises nine pulse streams [0029 lines 15-22] for the benefit of creating as many as 35,750 different data states to be encoded and distinguish each object with unique identification.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include each pulse beam comprise nine pulse streams as shown in Hartmann, in Lastinger et al. and Horwitz et al. combined device for the benefit of creating as many as 35,750 different data states to be encoded and distinguish each object with unique identification.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lastinger et al. (US Patent # 6,552,661 B1) in view of Horwitz et al. (US Patent # 6,617,962 B1) as applied to claim 18 above, and further in view of Orenstein et al. (US Patent # 5,976,038) (Already of record).

Consider claim 20, Lastinger et al. and Horwitz et al. combined reference teaches similar invention except the system wherein the disrupting means is formed by a coating.

Orenstein et al. teaches the disrupting means is formed by a coating (Column 4 lines 5-17) for the benefit of reflecting the energy towards the receiving antenna.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the disrupting means is formed by a coating as shown in Orenstein et al., in Lastinger et al. and Horwitz et al. combined device for the benefit of reflecting the energy towards the receiving antenna.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chidley et al. (US Patent # 5,245,317) "Article theft detection apparatus"

Stoffer (US Patent # 6,084,513) "Method and apparatus for tracking a patient"

Moore (Pub # US 2003/0001726 A1) "RFID material tracking method and apparatus".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK K. WANG whose telephone number is (571)272-1938. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on 571-272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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/JKW/

/Angela Ortiz/

Supervisory Patent Examiner, Art Unit 4154